
DEPARTMENT OF HIGHER EDUCATION

Restriction on instructional fee increases (PARTIALLY VETOED)

- Prohibits state universities, university branches, and the Northeast Ohio Medical University from increasing in-state undergraduate instructional and general fees for each of the 2017-2018 and 2018-2019 academic years.
- Would have permitted, for the 2017-2018 academic year, community colleges, state community colleges, and technical colleges to increase instructional and general fees by not more than \$10 per credit hour over what was charged in the previous academic year (VETOED).
- For the 2018-2019 academic year, permits community colleges, state community colleges, and technical colleges to increase instructional and general fees by not more than \$10 per credit hour over what was charged in the previous academic year.
- Excludes from the fee restrictions: room and board, student health insurance, auxiliary goods or services fees provided to students at cost, pass-through fees for licensure and certification exams, study abroad fees, elective service charges, fines, voluntary sales transactions, career services, and fees to offset the cost of providing textbooks to students.
- Would have excluded noninstructional program fees from the fee restrictions (VETOED).

Undergraduate tuition guarantee (VETOED)

- Would have increased from 6% to 8% the limit on the one-time tuition increase a state university may apply to the first cohort under a university's tuition guarantee program (VETOED).

Investigation of fees

- Authorizes the Chancellor of Higher Education to investigate all fees charged to students by state institutions of higher education and to prohibit state institutions from charging any fee the Chancellor determines not to be in the best interest of students.

Textbooks

- Requires state institutions of higher education annually to report to the Efficiency Advisory Committee on efforts to reduce textbook costs for students.



- Requires state institutions to conduct an annual study of the current costs of textbooks and to submit it to the Chancellor.
- Requires the board of trustees of each state institution to adopt a textbook selection policy outlining faculty responsibilities and actions faculty may take when choosing and assigning textbooks and other instructional materials.

In-state tuition for transferred G.I. Bill beneficiaries

- Qualifies for in-state tuition at state institutions of higher education persons who are receiving transferred G.I. Bill benefits from a service member who is on active duty.

Remedial and developmental courses

- Applies the prescribed statutory limits on state operating subsidies for academic remedial or developmental courses only to remedial or developmental courses "completed at the main campus" of most state universities.
- Continues to exempt Central State University, Shawnee State University, Youngstown State University, any university branch campus, any community college, any state community college, and any technical college from the statutory limits.

Applied bachelor's programs at two-year institutions

- Permits the Chancellor to approve community colleges, technical colleges, and state community colleges to offer applied bachelor's degrees if specified conditions are satisfied.

"3+1" bachelor's model

- By June 30, 2018, requires the Chancellor to develop a "3+1" program model where a student may earn a bachelor's degree by attending a two-year state institution of higher education for three years and a state university for one year.

Noncredit certificate programs

- By January 1, 2018, requires the Chancellor to create an inventory of credit and noncredit certificate programs and industry-recognized credentials offered at state institutions of higher education and Ohio technical centers that align with in-demand jobs in Ohio.



- Requires the Chancellor to give preference to certificate programs that support adult learners when awarding funds from the OhioMeansJobs Workforce Development Revolving Loan Fund.
- Increases the maximum award amount to \$250,000 (per workforce program, per year) to an institution under the OhioMeansJobs Workforce Development Revolving Loan Program.

Workforce compacts

- Requires all state institutions of higher education located in the same region to enter into a workforce education and efficiency compact.
- Requires state institutions designated as "land grant colleges" under federal law (Ohio State University and Central State University) to also enter into a compact with one another to enhance collaboration.

Competency-based education programs

- Permits the Chancellor to recognize or endorse the following institutions of higher education for the purpose of providing competency-based education programs: (1) a regionally accredited private, nonprofit institution created by the governors of several states, (2) a state institution, and (3) a private, nonprofit institution.

College credit for comparable coursework

- Prohibits state institutions of higher education from refusing to accept college credit earned in Ohio in the past five years as a substitute for comparable coursework and establishes an assessment-based process for a student to receive credit for coursework earned more than five years ago.

Student assistance programs

- Requires that an Ohio College Opportunity Grant (OCOG) be applied toward the total state cost of attendance and the student's housing and living expenses, if the student is also receiving federal veterans' education benefits under the G.I. Bill.
- Qualifies for OCOG persons with intellectual disabilities who are enrolled in comprehensive transition and postsecondary programs (degree, certificate, or nondegree programs involving academic, career, technical, and independent living instruction) certified by the U.S. Department of Education.
- Authorizes the Adjutant General and Chancellor, for purposes of the Ohio National Guard Scholarship Program, to require that federal educational financial assistance



that is based on military service be applied to a recipient's eligible expenses first, before the scholarship funds.

- Repeals the Workforce Grant Program.
- Renames the State Need-Based Financial Aid Reconciliation Fund as the State Financial Aid Reconciliation Fund and makes miscellaneous changes regarding its use.

Tenure at state universities

- Requires the board of trustees of each state university to review the university's policy on faculty tenure and update it to promote excellence in instruction, research, service, commercialization, or any combination of those areas.
- Beginning July 1, 2018, requires a state university to include multiple pathways for tenure in its policy in order to receive Third Frontier research funds from the Department of Higher Education.

Paid leave donation programs

- Allows a state institution of higher education to establish a program under which an employee may donate accrued but unused paid leave to another employee who has a critical need for it because of circumstances such as a serious illness or a family member's serious illness.

Financial interests in intellectual property

- Requires state institutions of higher education to adopt rules under which an employee may receive a financial interest in intellectual property.

OSU utility agreement

- Allows the Columbus campus of the Ohio State University (OSU Columbus) to issue a request for proposals and select a special purpose vehicle with whom to enter into a utility agreement to improve the energy efficiency of the OSU Columbus utility system, beginning in calendar year 2017.
- Exempts OSU Columbus and the selected special purpose vehicle from several aspects of law regarding the sales and use tax, public utilities regulation, disposal of state agency excess or surplus supplies, construction management contracts, public improvements, and use of certain proceeds.



- Provides that a special purpose vehicle cannot own any utility services delivered to OSU Columbus by a public utility, and that OSU Columbus must be the customer of record for any public utility providing service to it while the utility agreement is in effect.
- Prohibits OSU Columbus or the special purpose vehicle from selling electricity generated by the utility system to any customer outside the system, unless otherwise permitted under federal and state laws and the rules of the Public Utilities Commission of Ohio (PUCO).
- Provides that OSU Columbus is not exempt from any applicable public utilities tariffs or PUCO rules or any other applicable federal or state law.

University housing, dining, and recreational facilities

- Permits a university housing commission to develop or redevelop housing, dining, and recreation (HDR) facilities on a property site within or outside the political subdivision in which the university's administrative offices are principally located.
- Applies all of the following to certain HDR facility property sites located outside the political subdivision:
 - HDR uses permitted under continuing law are unconditionally permitted on the property sites;
 - Development may accommodate population and structural densities exhibited on other university or university housing commission property;
 - Land use laws of local subdivisions, subdivision regulations, and other similar laws cannot prohibit, condition, limit, or impair development of the HDR facilities on the property sites.

Lease-rental payments

- Repeals the Chancellor's duties regarding lease-rental payments to the Public Facilities Commission to pay for facilities for state institutions of higher education.

Reports, studies, and initiatives

- Codifies a provision that requires the Chancellor to maintain an Efficiency Advisory Committee and provide an annual report compiling efficiency reports from all state institutions of higher education.



- Requires co-located state institutions of higher education to annually review and report their best practices and shared services to the Efficiency Advisory Committee, and requires the Committee to include co-location information in its annual report.
- Revises the content and timing of the course and program reviews required of state institutions of higher education.
- Requires each state university president to issue an annual report, by December 31, on the number of students who require remedial education, the costs of remediation, and other related information.
- Requires the Chancellor, in conjunction with the Department of Education, to submit an annual report on the progress the state is making in "Attainment Goal 2025."
- Requires the Chancellor to work with state institutions of higher education, Ohio technical centers, and industry partners to develop program models leading to credentials in in-demand occupations.
- Requires the Chancellor to support the continued development of the "Ohio Innovation Exchange" to showcase the research expertise of Ohio's university and college faculty in a variety of fields and to identify institutional research equipment available in the state.
- Requires the Chancellor, Director of the Governor's Office of Workforce Transformation, and Superintendent of Public Instruction to develop a program targeted at increasing the number of students who pursue degrees in advanced technology and cyber security.
- Creates the Joint Committee on Ohio College Affordability to study and develop strategies to reduce the cost of higher education.

Terms

As used in this portion of the analysis:

A **state institution of higher education** means any of the 13 state universities, the Northeast Ohio Medical University, and each community college, state community college, technical college, and university branch campus. The state universities are the University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami



University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University.

Ohio technical centers are career-technical centers and schools that provide adult education and are recognized as such by the Chancellor of Higher Education.

Restriction on instructional fee increases (PARTIALLY VETOED)

(Section 381.160)

For FYs 2018 and 2019 (the 2017-2018 and 2018-2019 academic years), the act prohibits each state university, university branch, and the Northeast Ohio Medical University from increasing its in-state undergraduate instructional and general fees over what the institution charged for the 2016-2017 academic year. Moreover, for the 2018-2019 academic year, the act limits community colleges, state community colleges, and technical colleges to not more than a \$10 per credit hour increase in their instructional and general fees over what was charged for the previous academic year. The Governor vetoed the portion of the act that would have allowed these two-year state institutions to increase instructional and general fees by up to \$10 per credit hour for the 2017-2018 academic year. According to the Governor's veto message, the intent of that veto is to prohibit that increase for the 2017-2018 academic year, but to allow it for the 2018-2019 academic year.

The act's limits on fee increases explicitly *exclude* the following:

- (1) Room and board;
- (2) Student health insurance;
- (3) Fees for auxiliary goods or services provided to students at the cost incurred to the institution;
- (4) Fees assessed to students as a pass-through for licensure and certification exams;
- (5) Fees in elective courses associated with travel experiences;
- (6) Fines;
- (7) Voluntary sales transactions; and
- (8) Career services.



The Governor vetoed a provision that would have excluded noninstructional program fees.

As in previous biennia when the General Assembly capped tuition increases, the act's provisions do not apply to increases required to comply with institutional covenants related to the institution's obligations or to meet unfunded legal mandates or legally binding prior obligations or commitments. Further, the Chancellor, with Controlling Board approval, may approve an increase to respond to exceptional circumstances as the Chancellor identifies.

Finally, the act specifies that the prohibition on increases does not apply to institutions that participate in an undergraduate tuition guarantee program (see below).

Undergraduate tuition guarantee (VETOED)

(R.C. 3345.48)

The Governor vetoed a provision that would have increased from 6% to 8% the limit on the one-time tuition increase a state university could apply to the first cohort under an undergraduate tuition guarantee program.

Under continuing law, each state university may establish a program whereby each entering cohort of undergraduate students pay an immediate increased rate for instructional and general fees, but that rate is guaranteed not to increase again for that particular cohort for the next four years. The act would have increased the maximum increase for just the first cohort under a university's program. For all subsequent cohorts, under law unchanged by the act, the university may increase the rates one time by the sum of the five-year average rate of inflation and the amount the General Assembly permits increases on in-state undergraduate instructional and general fees for the fiscal year.

Investigation of fees

(R.C. 3333.0416)

The act authorizes the Chancellor to investigate all fees charged to students by state institutions of higher education. If the Chancellor finds that the fee is not in the best interest of the students, the Chancellor may prohibit the state institution from charging that fee. However, if the Chancellor prohibits a fee, the institution may seek approval from the Controlling Board to charge it.



Higher education textbook study

(R.C. 3333.951(C) and (D))

The act requires each state institution of higher education annually to report to the Efficiency Advisory Committee on its efforts to reduce textbook costs to students. Also, each state institution must conduct a study to determine current textbook costs for its students and submit that study to the Chancellor annually by a date prescribed by the Chancellor.

Textbook selection policy

(R.C. 3345.025)

The act requires the board of trustees of each state institution of higher education to adopt a textbook selection policy. The policy must include faculty responsibilities and actions faculty may take in selecting and assigning textbooks and other instructional materials.

In-state tuition for transferred G.I. Bill beneficiaries

(R.C. 3333.31)

The act qualifies a person for in-state tuition at state institutions of higher education, if that person is receiving transferred federal veterans' education benefits (either under the Montgomery G.I. Bill or the Post 9/11 G.I. Bill) from a member of the Armed Forces who is on active duty. As under continuing law, in order to qualify for in-state tuition, the person receiving the transferred benefits must live in the state as of the first day of a term of enrollment at the state institution.

Persons receiving transferred G.I. Bill benefits from a veteran who served at least 90 days on active duty, but has since completed service, continue to qualify for in-state tuition under the act.

Remedial and developmental courses

(R.C. 3345.061)

The act specifies that the prescribed statutory limits on state operating subsidies that most state universities (see the exemptions below) may receive for academic remedial or developmental courses apply only to academic remedial or developmental courses "completed at the main campus" of those universities. These limits are as follows:



(1) In the 2014-2015 and 2015-2016 academic years, 3% of the total undergraduate credit hours provided by the university at its main campus;

(2) In the 2016-2017 academic year, 15% of the first-year full-time equivalent students enrolled at the university's main campus;

(3) In the 2017-2018 academic year, 10% of the first-year full-time equivalent students enrolled at the university's main campus;

(4) In the 2018-2019 academic year, 5% of the first-year full-time equivalent students enrolled at the university's main campus.

Under continuing law, the limits do not apply to state operating subsidies for academic remedial or developmental courses paid to (1) Central State University, (2) Shawnee State University, (3) Youngstown State University, (4) any university branch, (5) any community college, (6) any state community college, or (7) any technical college.

Applied bachelor's programs at two-year institutions

(R.C. 3333.051 with conforming changes in R.C. 3354.01, 3354.09, 3357.01, 3357.09, 3357.19, 3358.01, and 3358.08)

The act permits the Chancellor to authorize community colleges, technical colleges, and state community colleges to offer applied bachelor's degree programs. An "applied bachelor's degree" is a bachelor's degree that (1) is specifically designed for an individual who holds an associate of applied science degree, or the equivalent, in order to maximize application of the individual's technical course credits toward the bachelor's degree and (2) is based on a curriculum that incorporates both theoretical and applied knowledge and skills in a specific technical field.

Under the act, the Chancellor may approve a program if it demonstrates all of the following:

(1) Evidence of an agreement between the college and a regional business or industry to train students in an in-demand field and to employ students upon successful completion of the program;

(2) That the workforce needs of the regional business or industry is in an in-demand field with long-term sustainability based upon data provided by the Governor's Office of Workforce Transformation;

(3) Supporting data that identifies the specific workforce need the program will address;



(4) The absence of a bachelor's degree program that meets the workforce needs addressed by the proposed program offered by a state university or private nonprofit college; and

(5) Willingness of an industry partner to offer workplace-based learning and employment opportunities to students enrolled in the proposed program.

The Chancellor also may approve a program that does not meet the criteria described above if the program clearly demonstrates a unique approach to benefit the state's system of higher education in the state, as determined by the Chancellor.

Before approving a program, the Chancellor must consult with the Governor's Office of Workforce Transformation, the Inter-University Council of Ohio, the Ohio Association of Community Colleges, and the Association of Independent Colleges and Universities of Ohio, or any successor to those organizations.

"3+1" bachelor's model

(Section 381.570)

By June 30, 2018, the act requires the Chancellor, in consultation with the Inter-University Council of Ohio and the Ohio Association of Community Colleges, to develop a "3+1" baccalaureate degree program model. The model must outline how a student may complete three academic years, or 90 semester credit hours, at a state community college, community college, or technical college and then transfer to a state university to complete the final academic year, or 30 semester credit hours, or the remainder of the degree program.

When developing the model, the Chancellor must seek input from administrators of state institutions of higher education that are currently participating in a 3+1 program, as well as faculty leaders in the academic fields or disciplines under consideration for the program. Further, the Chancellor must evaluate existing 3+1 programs for their cost effectiveness for students.

Noncredit certificate programs

(R.C. 3333.94; Sections 610.50 and 610.51 (amending Section 2 of S.B. 1 of the 130th G.A.))

By January 1, 2018, the act requires the Chancellor to create an inventory of credit and noncredit certificate programs and industry-recognized credentials offered at state institutions of higher education and Ohio technical centers that align with in-demand jobs in the state.



The act also does the following with regard to the OhioMeansJobs Workforce Development Revolving Loan Program and Fund:

(1) Specifies that, when awarding funds from the Fund, the Chancellor must give preference to certificate programs that support adult learners and are included in the inventory created by the Chancellor (see above);

(2) Adds noncredit certificate programs that align with in-demand jobs to the eligible workforce training programs under the Program; and

(3) Increases the maximum award amount, from \$100,000 to \$250,000 (per workforce program, per year), to an institution under the Program.

Workforce compacts

(R.C. 3345.59)

By June 30, 2018, the act requires that all state institutions of higher education located in the same region of the state (as defined by the Chancellor) enter into a compact to (1) examine unnecessary duplication of programs, (2) develop strategies to address the region's workforce education needs and to promote alternative educational pathways, (3) reduce operational and administrative costs, (4) enhance collaboration and sharing of resources and curriculum, and (5) improve methods for efficiency and delivery of learning opportunities.

In addition to entering into regional compacts, the act requires state institutions designated as "land grant colleges" under federal law to enter into a compact with one another to enhance collaboration. Only Ohio State University and Central State University are designated as "land grant colleges."

State institutions are permitted to join multiple compacts beyond those that they are required to join under the act. Additionally, there is no maximum on the number of state institutions that may join each compact.

Each state institution must include, as part of its annual efficiency report to the Chancellor, the efficiencies produced as a result of each of the institution's compacts.

Competency-based education programs

(R.C. 3333.45)

The act authorizes the Chancellor to recognize or endorse an eligible institution for providing competency-based education programs, where students may receive



credit by demonstrating skills and knowledge in required subject areas. An "eligible institution of higher education" is any of the following:

--A regionally accredited private, nonprofit institution of higher education that is created by the governors of several states, where at least one governor from a participating state is a member of the institution's board of trustees;

--A state institution of higher education; or

--A private, nonprofit institution of higher education.

In recognizing or endorsing an eligible institution that is created by the governors of several states, the act permits the Chancellor to specify (1) the eligibility of the institution's students for state student financial aid programs, (2) any articulation and transfer policies of the Chancellor that apply to the institution, and (3) the reporting requirements for the institution. However, the act prohibits the Chancellor from providing any state operating or capital assistance to this type of institution for the purpose of providing competency-based education in Ohio.

Additionally, in recognizing or endorsing *any* eligible institution under this provision, the Chancellor may (1) recognize competency-based education as an important component of Ohio's higher education system, (2) facilitate opportunities to share best practices on delivery of competency-based education and eliminate any unnecessary barriers to such delivery, and (3) establish any other requirements that the Chancellor determines are in Ohio's best interests.

College credit for comparable coursework

(R.C. 3345.58)

The act prohibits state institutions of higher education from refusing to accept college credit earned in Ohio within the past five years as a substitute for comparable coursework offered at the institution. This includes credit earned in advanced or upper level coursework, which must be accepted as a substitute for comparable core or lower level coursework. For college credit earned in Ohio more than five years ago, the act requires state institutions to (1) permit the student to take a competency-based assessment in the relevant subject area, and (2) if the student passes the assessment, to excuse the student from completing the course and grant the student credit for that course.



Student assistance programs

OCOG for G.I. Bill recipients

(R.C. 3333.122)

The act requires that, if the recipient of an Ohio College Opportunity Grant (OCOG) is also receiving federal veterans' education benefits under the Montgomery G.I. Bill or the Post 9/11 G.I. Bill, the student's OCOG award must be applied to both (1) the total state cost of attendance, *and* (2) the student's housing costs and living expenses. The act further specifies that living expenses include "reasonable costs for room and board."

Under continuing law, an OCOG award generally cannot exceed the total state cost of attendance, unless the student is an eligible foster youth attending a two-year institution of higher education. The state cost of attendance is defined as "the average cost to a student when attending an Ohio institution of higher education" as calculated by the Chancellor.⁸⁵

OCOG for persons with intellectual disabilities

(R.C. 3333.122)

The act qualifies a person with intellectual disabilities enrolled in a comprehensive transition and postsecondary program certified by the U.S. Department of Education for OCOG. A comprehensive transition and postsecondary program, as defined by federal law, is a degree, certificate, or nondegree program that is designed to support persons with intellectual disabilities. The individuals receive academic, career, technical, and independent living instruction at an institution of higher education in order to prepare for gainful employment.⁸⁶

Ohio National Guard scholarships

(R.C. 5919.34)

The act authorizes the Adjutant General and the Chancellor to jointly adopt rules requiring an applicant for the Ohio National Guard Scholarship Program to use federal educational financial assistance programs, including programs offered by the U.S. Department of Defense, that are available based on the applicant's military service. If the rules are adopted, any financial assistance received under those federal programs must be applied first to the recipient's eligible expenses, and then any funds received

⁸⁵ O.A.C. 3333-1-09.1(B)(4).

⁸⁶ 20 U.S.C. 1140.



under the National Guard Scholarship must be applied to the remaining expenses. Essentially, the recipient's federal financial assistance is the "first payer" for the recipient's expenses, while the National Guard Scholarship is the "second payer."

A provision of continuing law, unchanged by the act, prohibits a recipient's scholarship from being reduced by the amount of federal veterans' education benefits received under the Montgomery G.I. Bill. It is unclear how this provision is affected by the act's provisions.

Workforce Grant Program

(Repealed R.C. 3333.93; conforming change in R.C. 6301.11)

The act repeals the Workforce Grant Program. This Program provided funds to public or private institutions of higher education or Ohio technical centers to make grants to eligible students pursuing degrees, certificates, or licenses for in-demand jobs.

State Financial Aid Reconciliation Fund

(R.C. 3333.121)

The act revises the State Need-Based Financial Aid Reconciliation Fund as follows:

(1) Specifies that the Fund consists of refunds of state financial aid payments disbursed by the Department of Higher Education for programs that it is responsible for administering, instead of refunds of payments under the Ohio College Opportunity Grant (OCOG) Program and the former Ohio Instructional Grant (OIG) Program;

(2) Requires the Chancellor to use any revenues credited to the Fund to pay obligations for "state financial aid programs," instead of prior-year obligations from the OIG and OCOG programs; and

(3) Renames the Fund as the "State Financial Aid Reconciliation Fund."

Tenure at state universities

(R.C. 3345.45)

The act requires the board of trustees of each state university to review the university's policy on faculty tenure and update it to promote excellence in instruction, research, service, commercialization, or any combination of those areas. Further, beginning January 1, 2018, each state university must include multiple pathways in its faculty tenure policy in order to receive Third Frontier research funds from the



Department. The act specifies that a commercialization pathway may be one of the included pathways.

Paid leave donation programs

(R.C. 3345.57)

The act allows a state institution of higher education to establish a program under which an employee of the institution may donate accrued but unused paid leave to another employee who has no unused paid leave and who has a critical need for it because of circumstances such as a serious illness or an immediate family member's serious illness. If a state institution establishes a leave donation program, it must adopt rules in accordance with the Administrative Procedure Act to provide for the program's administration, including provisions that identify the circumstances under which leave may be donated and the amount, types, and value of leave that may be donated.

Financial interests in intellectual property

(R.C. 3345.14)

The act requires the board of trustees of each state institution of higher education to adopt rules prescribing when an employee may solicit or accept, and when someone may give to that employee, a financial interest in any association to which the board has transferred its interests in intellectual property. Under prior law, adoption of these rules was permissive.

Under continuing law each institution owns all of the rights and legal interests in discoveries, inventions, or patents that result from research conducted at the institution, including by employees acting within the scope of their employment, unless the institution assigns its interests in discoveries to others (such as faculty members, students, or firms in which faculty members or students have ownership interests).

OSU utility agreement

(Section 749.20)

The act authorizes the Columbus campus of the Ohio State University (OSU Columbus), beginning in calendar year 2017, to enter into a utility agreement with a special purpose vehicle to operate, develop, and increase the energy efficiency of the utility system. It defines "utility system" as the university-owned system for producing, transforming, or distributing one or more of the following to serve OSU Columbus, and intended solely for consumption by OSU Columbus or OSU Columbus' lessees: power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not



connected with highway drainage, or any other similar commodity. The definition includes any building, structure, or facility owned or leased by OSU Columbus that is on real property (1) OSU Columbus owns or leases, and (2) behind the meter of the public utility service provider serving OSU Columbus.

The act specifies that the utility system cannot be used to provide or offer communications services. It defines "communications services" as any of the following:

- Telecommunications service, as defined under federal law;⁸⁷
- Cable service, as defined under federal law;⁸⁸
- Information service, as defined under federal law;⁸⁹
- Wireless service;
- Any other one-way or two-way communication service, including Internet access service.

The act further specifies that the utility agreement cannot permit the special purpose vehicle to take ownership of electricity or natural gas delivered by a public utility. In fact, the act provides that nothing in it should be construed to allow the special purpose vehicle to take ownership of any utility services delivered to the Columbus campus by a public utility. Additionally, nothing in the act should be construed to allow OSU Columbus or the special purpose vehicle to sell electricity generated by the utility system to any customer outside the system, unless OSU Columbus or the special purpose vehicle complies with all applicable state and federal laws and rules of the Public Utilities Commission of Ohio (PUCO). OSU Columbus, at all times during the utility agreement, must be the customer of record for any public utility providing utility service to it.

Request for proposals

OSU Columbus must issue a request for proposals (RFP) for managing, maintaining, and improving the utility system and meeting certain energy use and sustainability requirements for the system. The RFP must include all relevant information, including a general description of the project, the proposal submission

⁸⁷ 47 U.S.C. 153(53).

⁸⁸ 47 U.S.C. 522(6).

⁸⁹ 47 U.S.C. 153(24).



deadline, the information to be included in the proposal, selection criteria, and the timeline for selection.

OSU Columbus may consider any criteria it considers appropriate in evaluating the proposals, including:

- The technical ability of the special purpose vehicle based on its key personnel, corporate structure, organization, and staffing plan;
- The financial ability of the special purpose vehicle based on its approach to financing, sources and uses of funds, and debt structuring;
- The energy conservation measures proposed by the special purpose vehicle.

OSU Columbus may evaluate and select a proposal based on qualifications, best value, or both. The act also permits the evaluation and selection to be done through negotiation. OSU Columbus may accept or reject any or all proposals in whole or in part.

Upon selecting a proposal, OSU Columbus may enter into an agreement with the selected special purpose vehicle for an amount of time and under other terms and conditions as it determines are necessary and appropriate. The special purpose vehicle is to be paid under the agreement by fees or other consideration OSU Columbus determines.

Exemptions

Taxes

Under the act, OSU Columbus-owned property that is leased to the special purpose vehicle is to continue to be tax-exempt, as long as the property is used to operate the utility system for the benefit of OSU Columbus and OSU Columbus' lessees under the utility agreement. The act provides that, for purposes of the sales and use tax, the following are deemed to be sold to OSU Columbus under the agreement: (1) building and construction materials to be incorporated into the utility system, and (2) materials related to energy conservation measures to be developed by the special purpose vehicle.

Public utilities

The act provides that, as long as the utility system serves only OSU Columbus-owned or OSU Columbus-leased buildings, structures, and facilities, the special purpose vehicle will not be considered any of the following:



- A "public utility" under the law governing PUCO's general powers (R.C. Chapter 4905.);
- An "electric services company," for purposes of the competitive electric retail service law (R.C. Chapter 4928.);
- A "retail natural gas supplier," for purposes of the retail natural gas law (R.C. Chapter 4929.);
- An "electric supplier" under the law governing electric and other companies (R.C. Chapter 4933.);

The act also provides that, to the extent the utility system serves only OSU Columbus or OSU Columbus' lessees, OSU Columbus and the special purpose vehicle are exempt from the requirement that certain entities must receive certification from PUCO before providing competitive retail electric service.

Also, OSU Columbus is not to be considered a "public utility property lessor," for purposes of the public utilities tax law (R.C. Chapter 5727.). The act provides, however, that nothing in the act exempts OSU Columbus from complying with all of the following:

- Any applicable tariffs of the public utilities from which OSU Columbus receives utility services;
- Any applicable rules of PUCO; and
- Any other applicable state or federal law.

Excess or surplus supplies

The act provides that personal property related to the utility system that is sold or leased to a special purpose vehicle pursuant to the agreement must not be considered excess or surplus supplies for the sole purpose of determining the applicability of Ohio law regulating the disposal of state agency excess or surplus supplies. It also specifies that personal property to be sold to the special purpose vehicle does not include any installed components, in whole or in part, of the utility system.

Other exemptions

The act specifies that Ohio law governing (1) construction management contracts with public authorities, (2) public improvements, and (3) energy conservation contracts entered into with state institution of higher education boards of trustees, do not apply to any of the following:



- OSU Columbus' evaluation or selection of, or contract with, a special purpose vehicle;
- Performance of the following under the utility agreement, provided that the special purpose vehicle uses a best value or competitive selection process to identify the provider: design, demolition, project management, construction, repair, replacement, remodeling, renovation, reconstruction, enlargement, addition, alteration, painting, or structural or other improvements;
- Heating, cooling, or ventilating plants and other equipment installed or materials supplied for any of the activities performed under the agreement.

The act also specifies that the special purpose vehicle, when selecting the energy conservation measure provider named in the agreement, does not need to practice best value or competitive selection.

Under the act, OSU Columbus is exempt from being required to hold, invest, or use the proceeds of the utility agreement for the same purposes for which proceeds may be used under the laws regarding a university's ability to: (1) acquire housing and dining facilities or auxiliary or education facilities, and (2) establish or develop entrepreneurial projects. This exemption applies notwithstanding continuing Ohio law, unchanged by the act, that requires state universities to use proceeds from the sale or lease of certain property for the same purposes for which proceeds or borrowings may be used for the above two actions.⁹⁰

Termination

The act specifies that authority provided regarding the utility agreement requirements terminates on the date that all obligations under the agreement have been completed.

University housing, dining, and recreation facilities

(R.C. 3347.091)

The act provides that buildings or real property a university housing commission identifies as a property site to develop or redevelop for housing, dining, and recreation (HDR) facilities, need not be situated within the political subdivision in which the university's administrative offices are principally located.

⁹⁰ R.C. 3345.12(Q), not in the act.

If the property site is located entirely outside of the political subdivision, and at least 33% of the property site's boundary is contiguous (the boundary need not be continuous) to other university-owned or leased property, all of the following apply:

(1) HDR uses permitted under continuing law are unconditionally permitted on the property site.

(2) The property site may be developed to accommodate population and structural densities that match other developed real property and buildings owned or leased by the university or commission for the HDR purposes.

(3) No land use laws enacted by a municipality, township, city, or county; subdivision regulations; or similar lawfully binding provisions may be enforced, to the extent that they prohibit, condition, limit, or impair either the development of a property site or structural types or dimensions proposed for such purposes.

The act states that the HDR provisions are not to be construed to impair or prohibit a commission or university from acquiring title to real property or buildings leased or proposed to be leased in accordance with those provisions.

University housing commissions exist for each of the 13 state universities.⁹¹

Lease-rental payments

(Repealed R.C. 3333.13)

The act repeals the Chancellor's duties regarding lease-rental payments to the Public Facilities Commission to pay for facilities for state institutions of higher education. Those duties are no longer necessary because the bonds issued to pay for those facilities, and for which the lease-rental payments were made, have been retired.

Reports, studies, and initiatives

Efficiency Advisory Committee and reports

(R.C. 3333.95, as codified in Sections 610.10 and 610.11)

The act codifies a 2015 provision that requires the Chancellor to maintain an Efficiency Advisory Committee and provide an annual report by December 31 compiling efficiency reports from all state institutions of higher education. In doing so, it specifies that the Committee's purpose is generating institutional efficiency reports

⁹¹ R.C. 3347.01, not in the act.



(rather than optimal efficiency plans) and eliminates the requirement that the Chancellor's report benchmark efficiency gains realized over the previous year.

It also makes a technical change regarding the submission of the report, by requiring it to be submitted to the President of the Senate and the Speaker of the House (rather than the General Assembly), in addition to the Office of Budget and Management and the Governor.

Regarding the content of the efficiency reports that each state institution must submit to the Chancellor, and that must be compiled in the Chancellor's report, the act eliminates the requirement that each do the following:

(1) Identify efficiencies at the respective institution;

(2) Quantify revenue enhancements, reallocation of resources, expense reductions, and cost avoidance where possible in the areas of general operational functions, academic program delivery, energy usage, and information technology and procurement reforms; and

(3) Particularly emphasize areas where these reforms are demonstrating savings or cost avoidance to students.

Co-located campus report

(R.C. 3333.951)

The act requires co-located state institutions of higher education to annually review and report, to the Efficiency Advisory Committee, their best practices and shared services in order to improve academic and other services and reduce costs for students. The Committee, then, must include the information from co-located state institutions in its annual report.

Co-located institutions are two-year institutions (such as a community college and a university branch) that share a campus.

Course and program reviews

(R.C. 3345.35)

Under continuing law, each state institution of higher education, every five years, must evaluate all courses and programs it offers. The act eliminates the portion of the review that was based on student performance and, instead, requires each institution to evaluate all courses and programs based on enrollment and duplication with other state institutions within a geographic region, as determined by the



Chancellor. The act also requires each institution to evaluate the benefits of collaboration to deliver a duplicative program (rather than a low-enrollment course as under former law). Each institution must provide a summary of recommended actions, including consideration of collaboration with other state institutions, for courses and programs with low enrollment.

The first review under the revised provisions must be completed by December 31, 2017. The findings may be submitted as an addendum to those that were submitted prior to January 1, 2016. Additionally, each institution, in order to fulfill its reporting requirement, may submit its program and course review as part of its annual report to the Efficiency Advisory Committee.

Finally, the act changes the date by which the board of trustees of each state institution must evaluate all courses and programs from every fifth January 1 to every fifth September 1.

College remediation report

(R.C. 3345.062)

The act requires each state university president, annually by December 31, to issue a report regarding the remediation of students. The report must include the number of students who require remedial education, the cost and specific areas of remediation the university provides, and causes for remediation. Each president must present the findings to the university's board of trustees and submit a copy to the Chancellor and the Superintendent of Public Instruction.

Annual report of "Attainment Goal 2025"

(R.C. 3333.0415)

Beginning in 2018, the act requires the Chancellor, in collaboration with the Department of Education, to prepare an annual report regarding the progress the state is making in increasing the percentage of adults in the state with a college degree, industry certificate, or other postsecondary credential to 65% by the year 2025. The Chancellor must submit an electronic copy of the report to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House.

Program models, credentials for in-demand occupations

(Section 381.590)

The act requires the Chancellor to work with state institutions of higher education, Ohio technical centers, and industry partners to develop program models to



increase continuing education and noncredit program offerings that lead to credentials in the state's in-demand occupations. The models must include project-based learning.

Ohio Innovation Exchange

(Section 381.580)

The act requires the Chancellor to support the continued development of the Ohio Innovation Exchange for the purpose of (1) showcasing the research expertise of Ohio's university and college faculty in engineering, biomedicine, and information technology, and other fields of study, and (2) identifying institutional research equipment available in the state.

The "Ohio Innovation Exchange" is an initiative of the Department of Higher Education developed jointly by Case Western Reserve University, Ohio University, the Ohio State University, and the University of Cincinnati, in consultation with the Ohio Manufacturing Institute, that provides access to faculty profiles and resources.⁹²

Program to increase degrees in technology and cyber security

(Section 733.50)

Under the act, the Chancellor, in consultation with the Director of the Governor's Office of Workforce Transformation and the Superintendent of Public Instruction, must work with the business community and institutions of higher education to develop a program targeted at increasing the number of high school students who pursue certificates or degrees in advanced technology and cyber security.

Joint Committee on Ohio College Affordability

(Section 757.130)

The act creates the Joint Committee on Ohio College Affordability. The Committee is charged with studying and developing strategies to reduce the cost of attending college in Ohio. In doing so, it must consult with the Chancellor and representatives of colleges and universities.

The Committee must hold its first meeting by November 28, 2017, and meet at the members' discretion thereafter. By September 29, 2018, the Committee must submit a report on its findings and recommendations to the Governor and General Assembly. The Committee ceases to exist after submitting the report.

⁹² More information about the "Ohio Innovation Exchange" is available at <https://www.ohioinnovationexchange.org/>.



The Committee consists of five members of the Senate and five members of the House. No more than three members from each chamber may be members of the same political party. The President of the Senate and Speaker of the House must appoint the members from their respective chambers by October 29, 2017.

